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Atorneys for Plaintiffs,
Lloyd Thomas Bernard, II and Stephanie Celeste Tejada-Otero

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

LLOYD THOMAS BERNARD, II, et al.,

Case No. 2:21-cv-00172-TLN-DB

**STIPULATION AND ORDER TO
VACATE HEARINGS ON
MOTIONS TO DISMISS AND
FOR LEAVE TO FILE
SECONDAMENDED
COMPLAINT**

Plaintiffs,

v.

COUNTY OF SAN JOAQUIN, et al.,

Judge: Hon. Troy L. Nunley
Courtroom: 2, 15th Floor

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1 WHEREAS: Pro Se Plaintiffs Bernhard, and Tejada-Otero recently
2 obtained counsel to assist them in the prosecution of their civil rights case. [Dkt.
3 #s 58–61.]

4 WHEREAS: There are presently four motions to dismiss pending. [See,
5 Dkt.#s 31, 47, 53, and 54.]

6 WHEREAS: As the matter stands, the time has passed for Plaintiffs to
7 file oppositions to the motions appearing at Docket Numbers 31, 47, and 53.

8 WHEREAS: Defendants' motions raise multiple issues, ranging from
9 absolute immunity to improper service and other issues. [See, Dkt.#s 31, 47, 53,
10 and 54.]

11 WHEREAS: Plaintiffs already have filed, in addition to their original
12 complaint, two “First Amended Complaints.” [Dkt. #s 26–28.]

13 WHEREAS: Now that Plaintiffs have retained counsel with substantial
14 experience prosecuting this type of civil rights case, their counsel has requested,
15 and defense counsel has agreed, as a compromise, to allow Plaintiffs an
16 opportunity to file another amended complaint with the assistance of
17 experienced counsel as described in this stipulation.

18 WHEREAS: Plaintiffs’ new counsel has had an opportunity to review the
19 First Amended Complaint, a portion of the underlying juvenile dependency case
20 file, and interview the Plaintiffs. Based on said preliminary investigation efforts
21 Plaintiffs’ counsel has represented that “it appears that the warrant issued at the
22 outset was defective, and the application for it might also have been defective.
23 But, from what I can tell, that warrant does not appear to have ever been
24 executed. In short, it does not look like there is an unwarranted seizure claim
25 arising from the first warrant issued.” Thus, the proposed amendment will
26 eliminate/dismiss all claims arising from the seizure or removal of the children,
27 including any purported *Monell* claim arising from any such seizure or removal.

WHEREAS: Plaintiffs' counsel will dismiss without prejudice those defendants as to whom his current investigations reveal no basis for a claim, which will include, without limitation Defendants San Joaquin County Human Services Agency, Diane Nowak, "Valesquez," Jasmine Ceja, Adriana Calderon, Danevia Rhone, Marisol Enos-Schafer, Adrenna Torrence, Shannon Blankenship (Siviengkham), and Yeni Gonzalaez.

WHEREAS: The amended complaint will be limited to claims for relief based on alleged unwarranted and/or improper medical examinations and/or procedures and allegations of deceptive presentation of evidence in Juvenile Court reports filed after January 15, 2019, during the pendency of the juvenile case.

WHEREAS: Taking account of the current circumstances as set out above, the parties, through their respective counsel, agree that the currently pending motions to dismiss shall be withdrawn and the hearing dates shall be vacated. In addition, Plaintiffs' new counsel shall have 30 days within which to file Plaintiffs' Second Amended Complaint.

WHEREAS: Defendants reserve the right to assert any and all defenses, and shall have 30 days from service of the Second Amended Complaint to move, plead, or otherwise respond to it.

SO STIPULATED.

March 1, 2023 The Law Offices of Shawn A. McMillan, APC.
/S/ Shawn A. McMillan
Shawn A. McMillan, Esq.
Counsel for all Plaintiffs

1 Rhone, Diane Nowak, Shannon Blankenship,
2 Misty Arbuckle, Jazmin Ceja, Adriana
3 Calderon, Yeni Gonzales (Not on Behalf of
Defendants Leslie Billings or "Valesquez," who
have not been served with process).

4 **FINDING GOOD CAUSE, IT IS SO ORDERED.**

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6 Dated: March 2, 2023

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Troy L. Nunley
United States District Judge

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